

60.130-1118
01MRA0235**REMARKS****Claim Rejections - 35 U.S.C. §103**

Claims 2, 3, 5-10, 13-18 and 21 were pending in the application. The Examiner rejected each of these claims. Applicant has further added new claims 22-24. For the reasons stated below, Applicant believes all claims to be in condition for allowance.

Claim Rejections - 35 U.S.C. §102

The Examiner rejected claims 2, 3, 5-7, 13-15, 18 and 21 under 35 U.S.C. §102(b) as being anticipated by *Murty, et al.* Applicant disagrees with the basis for this rejection. Specifically, independent claim 5 requires a magnetized plunger and a conductive coil disposed about said magnetized plunger. *Murty, et al.* fails to show both a magnetized plunger and a conductive coil disposed about the magnetized plunger as required by claim 5. In the previous Office Action, the Examiner acknowledged the absence of this feature in *Murty, et al.* stating:

Murty, et al. lack the limitation of a magnetized element and a coil assembly being in the form of a magnetized *plunger* and coil assembly.

[Non-Final Office Action (3-25-04), p.2]. Applicant agrees with the Examiner's previous position on this point. The Examiner's reference to *Tokumitsu, et al.* is unavailing as the reference relates to an entirely different field of invention, i.e., record changers. Certainly, nothing within *Murty, et al.* suggests its rotor to be a magnetic plunger. Accordingly, claim 5 and its dependents, claims 2, 3, 6, 7 and 8, stand in condition for allowance.

Claim 2 requires in pertinent part, "said vehicle support is attached to said magnetized plunger." This feature is not shown by *Murty, et al.* because there is no

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plunger and coil arrangement. Therefore, claim 2 is in condition for allowance for this additional reason.

Claim 3 requires, "said conductive coil creates an electromagnetic field about said magnetized plunger so as to slow the movement of said magnetized plunger." Again, there is no magnetized plunger in *Murty, et al.* as previously acknowledged by the Examiner. Therefore, there can be no electromagnetic field created to slow movement of this plunger. Claim 3 is in condition for allowance.

The Examiner further rejected independent claim 13 and its dependents, claim 14, 15 and 21. Claim 13 requires a magnetized plunger, a conductive coil disposed about said magnetized plunger, a vehicle support for a wheel connected to move with one of said magnetized plunger and said conductive coil, and a control for sensing movement of the wheel and actuating said conductive coil when resistance is desired. As explained above, *Murty, et al.* does not show a magnetized plunger or a conductive coil disposed about the magnetized plunger. Also, there is no showing of a vehicle support or wheel connected to one of the magnetized plunger and the conductive coil. Finally, there is no control for sensing movement of the wheel and actuating the conductive coil where resistance is desired. For these reasons, claim 13 and its dependents, claims 14-17 and 21, stand in condition for allowance.

Claim 21 requires, "wherein said control determines when to charge said battery based on a level of movement of said vehicle support." There is no showing of such feature in *Murty, et al.* Therefore, claim 21 is in condition for allowance for this additional reason. The Examiner contends that this feature is shown by *Murty, et al.* claiming that speed and direction of the actuator dictate the selection of placing the

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system in motor mode or generator mode. While this may be true, these features are not "a level of movement of said vehicle support." The speed and direction are not a level of movement. Therefore, claim 21 is in condition for allowance.

The Examiner further rejected independent claim 18. Independent claim 18 requires "a magnetized plunger moving with said wheel." There is no showing of a magnetized plunger in *Murty, et al.* Therefore, claim 18 is in condition for allowance.

Claim Rejections - 35 U.S.C. §103

The Examiner rejected claims 8 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Murty, et al.* in view of *McGee*. Applicant disagrees with the basis for this rejection and believes these claims to be in condition for allowance. First, as argued above, there is no showing of a magnetized plunger as required by each of these claims. In addition, claims 8 and 16 require that, "said switching circuit includes a field effect transistor." The Examiner seeks to supply this missing element with the field effect transistor of *McGee*. Applicant previously argued that there is an absence of motivation or suggestion to combine *McGee* with the base reference. Rather than identify such motivation or suggestion to combine in either of the references, the Examiner contends that "it is within the knowledge generally available to one of ordinary skill in the art that field effect transistors provide the advantage of a fast response time." [Non-Final Office Action (10-21-04), p.10]. Applicant requests support for this advantage. In addition, even assuming this to be true, there is no showing in the references or the Examiner's statement of the art that the base reference would benefit from the advantage of a fast response time. Therefore, there is still no motivation or suggestion to combine the references.

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Claims 9, 10 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Murty, et al.* in view of *Wolfe*. The Examiner acknowledges that *Murty, et al.* fails to teach the limitation of the switching circuit being configured to switch at a higher frequency than the frequency of movement of the magnetized plunger. [Non-Final Office Action (10-21-04), p.4]. The Examiner seeks to supply this missing element with the switching circuit of *Wolfe*, which the Examiner contends is configured to switch at a higher frequency than the frequency of movement of moving member 22. The combination of references, however, fails to teach all of the limitations of the foregoing claims. Claim 9, 10 and 17 require a switching circuit forming a circuit with a conductive coil, the switching circuit configured to switch the coil at a higher frequency than the frequency of movement of the magnetized plunger. This feature is not shown by *Wolfe*, which teaches a hydraulic, not electrical, circuit. Accordingly, there is no showing of an electrical circuit for switching a coil at a higher frequency than the frequency of movement of the magnetized plunger. Moreover, the substitution of the hydraulic circuit of *Wolfe* with the circuit of *Murty, et al.* would not work as the hydraulic circuit of *Wolfe* could not control the dynamoelectric machine of *Murty, et al.* There is also no mention in *Murty, et al.* that it could benefit from the hydraulic circuit of *Wolfe*. Therefore, there is no motivation or suggestion for this combination. Claims 9, 10 and 17 are in condition for allowance.

The Examiner further rejected claims 2, 3, 5-7, 13-15 and 18 under 35 U.S.C. §103(a) as being unpatentable over JP-4300709 in view of *Murty, et al.* The Examiner recognizes that JP '709 fails to show a battery in communication with the circuit of the conductive coil. The Examiner seeks to supply this element with the battery of *Murty, et*

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al. The Examiner contends that it would be obvious to one of ordinary skill in the art to provide JP '709 with the battery to provide a means of conserving energy for later use by the electrical apparatus of the vehicle. However, there is no indication in JP '709 that it would benefit from the battery, especially since *Murty, et al.* teaches a battery in use with a dynamoelectric machine rather than a coil and plunger combination. Therefore, the combination is improper and claims 2, 3, 5, 13, 15 and 18 stand in condition for allowance.

The Examiner further rejected claims 8 and 16 under 35 U.S.C. §103(a) as being unpatentable over JP '709 in view of *Murty, et al.* and in view of *McGee*. As explained above, there is improper motivation for the combination of JP '709 with *Murty, et al.* For this reason alone, these claims are in condition for allowance. Also, the combination of *McGee* with the base references suffers from the same lack of motivation as explained above, i.e., there is no indication in the base reference that JP '709 would benefit from the field effect transistor of *McGee*. Applicant also requests the Examiner provide support for the statement that it is within the general knowledge to one of ordinary skill in the art that field effect transistors provide the advantage of a fast response time. Therefore, claims 8 and 16 stand in condition for allowance.

The Examiner rejected claims 9 and 10 as being unpatentable over JP '709 in view of *Wolfe*. Again, *Wolfe* fails to disclose a switching circuit configured to switch a conductive coil at a higher frequency than the frequency of movement of a magnetized plunger. Replacing the electrical circuit of JP '709 with the hydraulic circuit of *Wolfe* would render JP '709 inoperable and destroy JP '709 as a reference. Accordingly, claims 9 and 10 stand in condition for allowance.

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The Examiner rejected claim 17 under 35 U.S.C. §103(a) as being unpatentable over JP '709 in view of *Murty, et al.* and further in view of *Wolfe*. Again, *Wolfe* cannot be combined with JP '709 for the reasons stated above. Therefore, claim 17 is in condition for allowance.

In addition, Applicant has added new claims 22-24 to further distinguish the invention from the dynamoelectric machine of *Murty, et al.*

For the above stated reasons, Applicant requests allowance of claims 2, 3, 5-10, 13-18 and 21-24.

Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

Anthony P. Cho
Registration No. 47,209
400 W. Maple Rd., Ste. 350
Birmingham, MI 48009
(248) 988-8360

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CERTIFICATE OF FACSIMILE

I hereby certify that this Response, Application Serial No. 09/925,774, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on January 21, 2005


Theresa M. Palmateer

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